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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,450	08/29/2001	Jeff S. Eder	AR - 23	5509

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ASSET TRUST, INC.
2020 MALTBY ROAD
SUITE 7362
BOTHELL, WA 98021

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 11/02/2009

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 09/940,450	Applicant(s) EDER, JEFF S.	
	Examiner JENNIFER LIVERSEGE	Art Unit 3684	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 01 August 2009 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.

/Jennifer Liversedge/
 Examiner, Art Unit 3684

Continuation of 10. Other (including any explanation in support of the above items): The Appeal Brief contains several errors as detailed herein:

* Page 6 cites claim 52 as a dependent claim. However, claim 52 is an independent claim as it claims a different statutory class than claim 44.

* Pages 10-15 contain multiple instances where the sentence has been left incomplete. In describing the dependent claims, the phrases say "...the limitations associated with claim [x] are found in a number of places including" but then does not finish to cite where the supporting sections are found.

* Page 15 contains the grounds of rejection to be reviewed on appeal. However, several errors are contained therein. For example, issue 1 and issue 2 incorrectly list the claims and the prior art by which they are rejected. In issue 1, claims 62, 63, 68, 70, 90 and 134 are rejected by Davis, Bielinski, Ray and Baur but not Official Notice. Claim 148 is rejected by Davis and Bielinski. In issue 2, claim 159 is missing. And similarly as above, the claims listed are not all rejected per the prior art as listed. For example, claim 163 is rejected by Davis and Srivastava while claim 164 is rejected by Davis, Srivastava and Official Notice. These are just examples of the errors contained in issues 1 and 2. The same applies to the Argument section of the Appeal Brief.

Note: the IDS submitted 7/25/2009 has been considered and is included with this communication. The NPL is current and does not apply as prior art. There are also several patent entries which do not appear to be related to the present case. In either case, the references have been reviewed and considered as indicated.